

REMARKS

Claims 1-14 and 16-20 are pending in the application. Claims 1 and 14 are amended herein. Claim 15 is cancelled herein. Applicants gratefully acknowledge the Examiner's allowance of claim 11.

Applicants submit that no new matter is added by amendments to claim 1 which is supported in the specification, for example, on page 21, line 19 – page 23, line 12. The Amendment to claim 14 combines the elements of claim 15 (cancelled) with claim 14.

Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-10 and 12-20 under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent No. 5,699,501 to Badovintz et al. ("Badovintz") in view of U.S. Patent No. 5,938,732 to Lim et al. ("Lim"). The Examiner reasserts the rejections of the previous Office Action dated April 10, 2003. The Examiner has considered Applicants' remarks filed July 14, 2003 but finds them unpersuasive.

In response to Applicants' remarks filed July 10, 2003, the Examiner indicated "Applicant's assertion 'electing a group leader by voting' cannot (be) read in claim 1. Claim 1 is not clearly directed to point out how the voting priority works to elect the group leader. Based on claim language in claim 1, 'electing one server of said set to become said new leader' does not support Applicant's argument." The Examiner also replied that "Lim discloses hosts within a group (i.e., multicast) to elect one of the hosts to fill the role of leader of the group; and the host the lowest host id (i.e., priority) is denominated the leader (col. 6, lines 7-14)."

Applicants respectfully disagree with the Examiner and reassert Applicants' arguments filed July 10, 2003 and submit the following clarification.

Applicants respectfully submit that the Examiner erroneously asserted that “electing a group leader by voting” cannot be read into claim 1. Any other reading of the term “electing” would be inconsistent with “each server having corresponding voting priority” because such other readings would render the servers’ claimed voting priority meaningless. Electing by voting is described in the specification, for example on page 22, lines 13 – 23, line 12 which recites *inter alia*, “Voting is done by sending an LC message, with a priority claim, and at an interval determined by how strong a claim the candidate has on becoming the GL. For example, a recently deposed GL may have the best claim and send the LC message faster than any other candidate could possibly send.” Applicants respectfully submit that electing according to the present invention is clearly performed by voting, and that such limitation is read into the claims.

Further, to clarify the meaning of the term “electing,” claim 1 is amended herein to recite “said set of servers electing one server of said set to become said new leader by voting wherein voting is performed by sending a leadership claim message including a priority claim at an interval determined by strength of a claim a candidate has on becoming the group leader.”

The Examiner indicated that “Lim discloses a host within a group (i.e., multicast) to elect one of the hosts to fill the role of ‘leader’ of the group; and the host the lowest host id (i.e. priority is denominated the leader (col. 6, lines 7 – 17)”. Applicants respectfully submit that Lim alone or in combination with Badovintz does not teach or suggest servers electing a leader by voting as claimed in independent claim 1.

Regarding independent claim 8, Applicants submit that neither Badovintz nor Lin teach or suggest “an election process in each participant to calculate a voting priority of said participant and to select a new group leader according to said voting priority...” as claimed. Neither Badovintz nor Lin teach or suggest anything about servers voting to elect a new leader or anything about voting priority. Rather, the references disclose designating a leader based on the potential leader’s priority, i.e., “the host with the lowest i.d.” (Lin, col. 6, line 7-15). This does not teach or suggest voting priority as claimed in the present invention.

Similarly, regarding claim 14, Applicants submit that neither Badovinatx nor Lin teach or suggest “designating a group leader on said network segment...in which said step of designating said group leader is carried out among a set of servers of said cluster according to a voting priority determined by at least some of said members from a set of dynamic parameters measured within themselves” as claimed in claim 14 as amended.

The Examiner indicated that motivation to combine the many cited references is to improve the quality of service by placing tasks according to priorities and processing tasks having high priority. Applicants submit that Examiner’s indicated motivation to combine Badovinatx and Lim is without merit. A proper motivation to combine teachings of Badovinatx and Lim, such as to overcome the deficiencies of Badovinatx as described in the present specification (page 6, lines 14 – 24), is not found either explicitly or implicitly in Badovinatx, Lim or in the knowledge of persons having ordinary skill in the art.

“Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art” (MPEP 2143.01). Applicants submit that even if each and every element of the present invention were present in the cited art (which Applicants maintain they are not), no motivation to combine exists without the use of improper hindsight and without looking outside of the cited reference. None of the references suggests the desirability of the resultant combination.

Since none of the cited references alone or in any combination with the other cited references teaches or suggests each and every element of independent claim 1, claims 2-7 which depend therefrom, independent claim 8, claims 9 -10, 12 -13 which depend therefrom, independent claim 14 or claims 16 – 20 which depend therefrom combined according to the claims, the Examiner has not made out a *prima facie* case of obviousness under 35 U.S.C. 103(a). Accordingly, the rejections of claims 1-10, 12-14 and 16-20 are improper and should be withdrawn.

Reconsideration and allowance of this application are in order, and such action is hereby respectfully requested. The Examiner is invited and encouraged to telephone the undersigned with any concerns in furtherance of the prosecution of the present application.

Please charge any deficiency as well as any other fees which may become due at any time during the pendency of this application, or credit any overpayment of such fees to deposit account No. 50-0369. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge deposit account No. 50-0369.

Respectfully submitted,

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